

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America)

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) Case No. 5:20-MJ-1574-JG

Andrew Salvarani GARCIA-SMITH)

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Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 30, 2020 in the county of Cumberland in the
Eastern District of North Carolina, the defendant(s) violated:

Code Section

Title 18 U.S.C. §§ 844 (f)(1), (f)(2)
and 2

Offense Description

Maliciously Damaged by means of fire a building, which building is in part owned and possessed by the City of Fayetteville, an organization receiving Federal financial assistance, and such conduct created a substantial risk of injury to persons, and aiding and abetting

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet.

On this day, Jeff Silver
appeared before me via reliable electronic means,
was placed under oath, and attested to the contents
of this Complaint.

5 June 2020

Date: 06/04/2020

City and state: Raleigh, NC

Jeffrey M Silver
Complainant's signature

Jeff Silver, Special Agent
Printed name and title

J.E.G.
Judge's signature

James E. Gates, U.S. Magistrate Judge

Printed name and title

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

Probable Cause Affidavit

I, Jeff Silver, hereinafter designated as affiant, having been duly sworn according to law, deposes and states that:

1. Affiant is a Special Agent with the United States Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Affiant has been so employed since December of 2013 and is currently assigned to the Fayetteville, North Carolina Field Office within the Charlotte, North Carolina Field Division. Affiant graduated from the Special Agent Basic Training Academy (ATF National Academy) and the Federal Law Enforcement Training Center in July of 2014. Affiant has received extensive training at the ATF National Academy in the investigation of firearms, arson, and explosives offenses. Affiant is also a member of the ATF National Response Team (NRT), which responds to major fire and explosive incidents nationwide, since June of 2017.
2. Affiant's duties include, but are not limited to, enforcing the Federal firearms laws as well as other laws committed in violation of Federal Statutes. During Affiant's employment with ATF, Affiant has conducted and assisted in numerous firearms, narcotics, and fire investigations. Prior to being hired with ATF, Affiant was an eighteen year veteran of the fire service in both career and volunteer leadership positions.
3. As a result of Affiant's training and experience as an ATF Special Agent, Affiant is familiar with Federal criminal laws and has participated in the investigations of criminal violations of federal law, including, but not limited to Title 18 United States Code, Section 844.

4. This affidavit is based on personal knowledge gained from participating in this investigation, interviews by the Affiant or other participating agents or officers during the investigation, and conclusions the Affiant has reached based off of training and experience in the investigation of offenses involving federal arson violations. Affiant is not including every fact of the investigation, but only the necessary information needed to obtain probable cause.

Facts in Support of Probable Cause

5. On or about May 30, 2020, a protest took place in downtown Fayetteville, North Carolina. At approximately 7:15 p.m., the previously peaceful protest turned violent as multiple individuals, both known and unknown, set fire to a federal historic landmark known as the Market House. The Market House, located at One Market Square in Fayetteville, N.C. 28301, was built in 1832 and was entered into the National Register of Historic Places on September 15, 1970. The Market House is owned and operated by the City of Fayetteville, which receives federal funding annually—as confirmed by City officials.

6. One individual identified as taking part in the fire is Andrew Salvarani GARCIA-SMITH, d/o/b 03/06/1988. During the violent protest, a Facebook Live video posted from the profile of “Dre Ballard” showed a black or Hispanic male with long hair pulled into a bun, later identified as GARCIA-SMITH, walking up the stairs of the Market House entrance. At the top of the stairs, on a small landing, a small fire was burning. GARCIA-SMITH picked up a bottle of burning liquid off the floor of the landing, pushed open the door of the Market House with one hand, and threw it inside with his other hand. A portion of the burning liquid spilled on GARCIA-SMITH when he threw the bottle, setting him on fire. GARCIA-

SMITH ran down the stairs as the flames engulfed his head and body. GARCIA-SMITH dropped to floor and began rolling, while others helped to extinguish the flames.

7. The following day, in the course of investigating the fire, ATF Agents spoke with officials from the Cape Fear Valley – Hoke Hospital. The officials confirmed two burn victims showed up at the hospital the night prior, after the Facebook Live video broadcasted. One of the two individuals, GARCIA-SMITH, was transferred to the University of North Carolina at Chapel Hill Burn Center (UNC Hospital).
8. On June 1, 2020, Fayetteville Police Department contacted ATF Agents with a Crime Stoppers Tip they received. The Tip stated, “Andrew GARCIA-SMITH caught himself on fire while attempting to set the Market House on fire in Fayetteville, NC on 5/30/2020.” The Tip went on to identify GARCIA-SMITH as the individual from the Facebook Live video.
9. That day, June 1, 2020, ATF Agents went to the UNC Hospital to interview GARCIA-SMITH. During the audio-recorded interview, GARCIA-SMITH acknowledged and waived his *Miranda* rights. GARCIA-SMITH agreed to speak with the Agents.
10. GARCIA-SMITH initially told the Agents he caught himself on fire while burning leaves in his yard. However, as the Agents spoke with GARCIA-SMITH, he began to change his story. GARCIA-SMITH acknowledged he was at the Market House protest on May 30, 2020, but claimed the Market House was already on fire when he arrived. GARCIA-SMITH said other protesters had bottles of gasoline and gasoline cans.

11. When the Agents addressed the video, GARCIA-SMITH said he went up the landing to try and stomp out the fire. When it would not go out, GARCIA-SMITH claimed he picked up the bottle of gasoline and threw it at a busted water line near the stair well.
12. The video of the incident conflicts with GARCIA-SMITH's account of what happened.
13. The Market House sustained damage as a result of the fires on May 30, 2020. This damage includes charring and discoloration on the exterior stairway and supportive railing; charring and discoloration to the wooden stairs and supportive railing; charring and discoloration to the wooden safety rail located on the exterior second floor balcony; discoloration and soot on the interior walls around the entrance doorway and wooden stairs that accessed the second floor; and charring and mass loss to the wood flooring on the second floor.
14. Based on the foregoing investigation, probable cause exists to believe that the subject, Andrew GARCIA-SMITH, aiding and abetting others, did violate Federal law including Title 18, United State Code Sections 844(f)(1), (f)(2), and 2. I respectfully request that a complaint warrant be issued for Andrew GARCIA-SMITH's arrest.

Jeffrey M Silver

Jeff Silver
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

On this 5 day of June 2020, Jeff Silver appeared before me via reliable electronic means, was placed under oath, and attested to the contents of this affidavit.

[Signature]

JAMES E. GATES
UNITED STATES MAGISTRATE JUDGE